

REMARKS

This is in response to the Office Action dated September 1, 2004. In view of the following representations, reconsideration is respectfully requested.

By the above amendment, claim 1 is amended to make minor clarifying changes.

In the previous Office Action, claims 1, 2, and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kayano et al. (U.S. Patent No. 5,614,804). As will be demonstrated below, the Kayano reference does not disclose each and every limitation of claims 1 and 7.

An invention is anticipated if the same device, including all of the claim limitations, is shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim. Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the patent claim. Jamesbury Corp. v. Litton Industrial Products, Inc., 756 F.2d 1556, 1560, 225 USPQ 253, 256 (Fed. Cir. 1985).

In the rejection of claims 1 and 7, the Examiner takes the position that the Abstract of the Kayano reference discloses "a residual capacity correction method for a battery, the method comprising: making a count of one cycle each time an accumulated quantity of a charge capacity of a battery reaches a set capacity; and decreasing a learning capacity by a specified cycle degradation capacity per charge of the one cycle."

The Examiner's rejection of claim 1 is respectfully traversed for the following reasons.

Kayano discloses a method of detecting residual capacity of a battery, whereas claim 1 is directed to residual capacity correction method. The only discussion of residual capacity correction in the abstract is the following statement:

"If the residual capacity of the battery is determined as being virtually zero based on the maximum output, then the residual capacity is corrected with a corrective capacity for correcting for a change in the residual capacity due to a degradation of the battery".

However, this statement clearly does not correspond to the claim language. In particular, there does not appear to be any description in the abstract that would read on the limitation of claim 1 that requires "making a count of one cycle each time an accumulated quantity of a charge capacity of a battery reaches a learning capacity." Thus, it would appear that Kayano does not meet each and every limitation of claim 1, and therefore cannot anticipate claim 1 under 35 U.S.C. 102(b). Should the Examiner decide to maintain this rejection, then the Examiner is requested to specifically identify the portion of the abstract or other disclosure in Kayano that describes "making a count of one cycle each time an accumulated quantity of a charge capacity of a battery reaches a learning capacity."

Further, the Examiner relies on col. 11, lines 52-57 of Kayano as a basis for the rejection of claims 2 and 10. However, based on col. 11, lines 52-57 of Kayano, it is clear that the residual capacity determining flag (S38-66, Fig. 11) comes from WAT1 flag (S38-62), and WAT2 flag (S38-60). As shown in Fig. 8, the WAT1 flag, and the WAT2 flag are set in step S38-8, and step S38-14, respectively (see col. 8, lines 56-67). As described, the battery voltage is checked to determine whether it is lower relative to a first threshold

E1, and a second threshold E2. If so, it indicates that the residual capacity has reached the complete discharge level. However, claim 1 recites that the battery is used in a state in which complete discharge is not repeated. Thus, Kayano clearly does not teach the claimed method. Furthermore, the above demonstrates that Kayano does not disclose or suggest the feature of claim 1 requiring "making a count of one cycle each time an accumulated quantity of a charge capacity of a battery reaches a learning capacity."

Further, the Examiner relies on col. 2, line 64 to col. 3, line 18 of Kayano to meet the limitations of independent claim 7. However, claim 7 is directed to a residual capacity correction method and requires, *inter alia*, "specifying a decreasing rate of a learning capacity as a keeping degradation capacity while a keeping temperature and a residual capacity of the battery are used as parameters". As described in paragraphs [0028] to [0029] of the specification as originally filed, Fig. 2 shows the coefficients for calculation of the keeping degradation capacity of the battery for one minute in the keeping state (residual ratio). Kayano clearly does not disclose or suggest using the residual capacity of the battery as a parameter. Thus, Kayano does not meet the limitation of claims 5 and 7 that requires "specifying a decreasing rate of a learning capacity as a keeping degradation capacity while a keeping temperature and a residual capacity of the battery are used as parameters". Therefore, Kayano does not meet each and every limitation of claims 5 and 7, and thus the Kayano reference cannot anticipate claims 5 and 7 under 35 U.S.C. 102(b).

Further, Kalogeropoulos is applied by the Examiner to teach a lithium ion secondary battery. However, as demonstrated above, the Kayano reference does not teach Applicants' invention as defined in claims 1 and 7, and therefore any combination of

Kayano and Kalogeropoulos also would not result in Applicants' invention as specified in claims 1 and 7.

In view of the above, the Examiner is requested to withdraw the rejections set forth in the previous Office Action and pass this case to issue.

In the event that the Examiner has any comments or suggestions of a nature necessary to place this case in condition for allowance, then the Examiner is requested to contact Applicant's undersigned attorney by telephone to promptly resolve any remaining matters.

Respectfully submitted,

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